

## REMARKS

Entry of the foregoing and reexamination and reconsideration of the subject application, as amended, pursuant to and consistent with 37 C.F.R. § 116, are respectfully requested in light of the following remarks.

Claims 20-23 and 25-50 are pending in this application. Claims 1-19 and 24 were previously cancelled.

Claim 20 has been amended to clarify the definition of a "true" biuret. Support for this amendment is found in the specification at least on page 18, line 20 to page 21, line 8. No new matter has been added in making this amendment.

Applicants note that Claims 35-37, 49 and 50 are allowed.

### **35 U.S.C. §103(a) Obviousness Rejection**

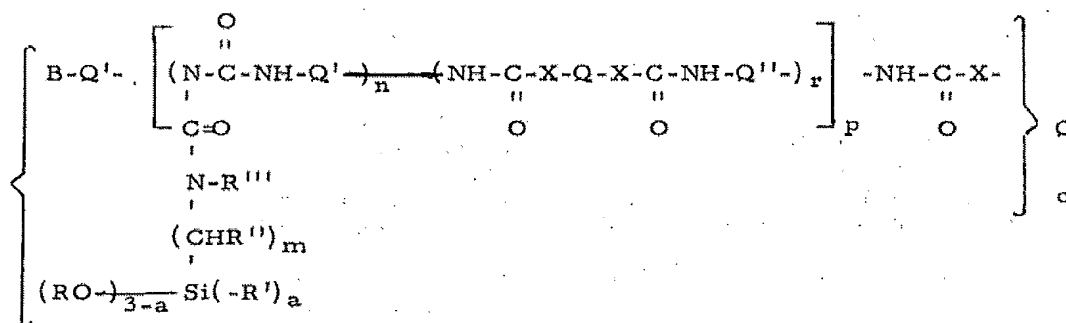
Claims 20-23, 25-34 and 38-48 have been rejected under 35 U.S.C. §103(a) as unpatentable over Wagner et al. (U.S. Patent No. 3,903,052).

Applicants respectfully submit that these claims are not obvious over Wagner et al. and that all of the claims are allowable.

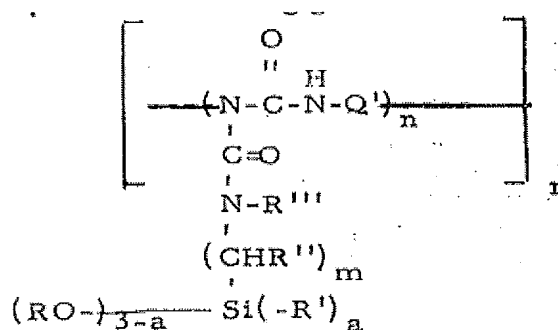
To establish a *prima facie* case of obviousness, three basic criteria must be met. (MPEP 2143) First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.



Wagner disclose silyl-substituted biuret derivatives of the formula:



in which the definitions of the variables are provided. The variable Q is a divalent radical with a molecular weight of 400 to 150,000 which has been obtained by the removal of di-hydroxyl or amino groups from a polyol or polyamide which contains certain recited functional groups and may also contain silylsubstituted biuret groups of the general formula:



The Office Action states:

Where P is three, the biuret comprises 3 alkoxysilanes, which meets the instantly claimed true biuret requirement c of the instant claims." (page 3, lines 5-6)

Applicants respectfully submit that this does not meet the requirements of the rejected claims. The structure of the composition of the present invention is distinct



from the compounds in Wagner et al. When p is three, the above formula would have three biuret groups each having one alkoxysilane, not one biuret group having three alkoxysilane units, as required by requirement c of the instant claims.

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. There is no suggestion or motivation in Wagner to modify the reference teachings to obtain the method of the applicants' invention. There is nothing in Wagner that teaches or suggests modifying the compounds in Wagner to obtain the composition of the instant invention. The Office Action states: indicates that sition unexpected properties of the claimed dendritic polymers. Therefore, there is no suggestion or motivation, either in the cited references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference to obtain the invention of the instant application.

To establish a *prima facie* case of obviousness, there must be a reasonable expectation of success. The inventors have shown that the substitution of the methyl for the ethyl does not result in predictable results in the stability of the dendritic polymer to hydrolysis. There is no reasonable expectation of success based on the teachings in Aketa that such differences in stability would result. Therefore there is no reasonable expectation of success in producing the applicants' invention based on the teachings in the cited prior art.

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The



Office Action acknowledges that Aketa does not teach or suggest the use of the methyl ester, acids or salts of a phosphonic group. Nor does Aketa teach or suggest the unexpected results found by the inventors in making the claimed compounds.

Therefore, the prior art reference does not teach or suggest all the claim limitations.

Applicants respectfully submit that the claims are not obvious over Aketa and the rejection should be withdrawn.

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited.

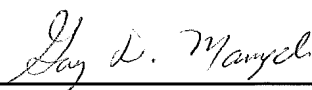
In the event that there are any questions related to this response, or the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney at the below-listed telephone number concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: August 24, 2009

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